

## REMARKS

In the Office Action, the pending claims were rejected as follows. Claims 1, 2, 3, 4, 6, 7, 12, 13, 15 and 18 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,843,169 to Taheri; Claim 5 was rejected under 35 U.S.C. §103(a) as being unpatentable over Taheri in view of U.S. Patent 6,193,745 to Fogarty et al.; Claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Taheri in view of U.S. Patent 6,312,457 to DiMatteo et al.; Claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over Taheri in view of U.S. Patent 5,360,443 to Barone et al.; Claims 10 and 11 were rejected under 35 U.S.C. §103(a) as being unpatentable over Taheri in view of Barone et al. further in view of U.S. Patent No. 6,702,844 to Lazarus; Claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over Taheri in view of U.S. Patent 5,720,776 to Chuter et al.; and Claims 16, 17 and 19-22 were rejected under 35 U.S.C. §103(1) as being unpatentable over Taheri in view of U.S. Patent 6,911,035 to Blomme. The Office Action also objected to the drawings as failing to comply with 37 CFR 1.84(p)(5) for including reference numbers that are not mentioned in the description and for failing to include other reference numbers that are mentioned in the description.

Claims 1-4, 6, 9, 10 and 13-21 have been amended. The Specification has been amended to attend to typographical errors as well as the objections to the drawings. No new matter is added.

In regard to the objection to the drawings, at page 2, the Office Action indicated that reference numbers mentioned in the description are missing for item 616 in Figs 21A, 21B and 21C. In response, it is noted that paragraph 0051 of the specification has been amended to correct the reference from Figs. 21A, 21B and 21C to Figs, 20A, 20B and 20C. In addition, enclosed herewith for the Examiner's approval are corrected drawings for Figs. 20A, 20B and 20C that include numeral 616 requested in the Office Action as well numeral 603, in accordance with the description provided in the Specification. See ¶0051. Changes are circled in red ink for the Examiner's convenience. A *Submission of Replacement Drawing Sheet* is also enclosed, which is believed overcomes the objection.

In regard to the rejections of the claims, Claims 1, 15 and 18, which are the pending independent claims, were rejected as anticipated by Taheri.

In regard to Claim 18, Taheri fails to disclose at least the recitation of at least first and second adjacent surgical staples being arranged in partial overlapping relation. The Office Action fails to provide any citation as to where it is believed that Taheri disclose or suggest that either its pins (24) or any other portions of the apparatus of Taheri are arranged in partial overlapping relation. It is respectfully submitted that Taheri fails to disclose or suggest the recitation of at least first and second adjacent surgical staples being arranged in partial overlapping relation. For at least this reason Taheri fails to anticipate Claim 18, and the rejection must be withdrawn.

Taheri also fails to disclose or suggest the recitation of deploying said surgical fasteners ... radially outwardly relative to said longitudinal axis, as in Claim 18. Rather, as shown in the depiction of the "bottom perspective view of the entire stapling surface of the apparatus" (Col. 2, lines 51-52) of Fig. 5b, the apparatus of Taheri radiates its pins (24) in only one direction and the neither pins nor staples extend radially outward relative to said longitudinal axis. For at least this additional reason, the rejection of Claim 18 must be withdrawn.

To advance prosecution, independent Claim 1 has been amended to include recitations formerly presented in Claims 2 and 9, which have been cancelled. In addition, Claims 17, 20 and 21 have been amended to the compacted fastener arrangement of the present invention, which is also not disclosed or suggested in the cited references.

Claim 9 was rejected in view of a combination of Taheri and Barone et al. The Office Action, at page 4, confirms that Taheri fails to disclose a "faster array arranged in overlapping fashion" and cites the Abstract of Barone et al. as allegedly curing the defect. However, Barone et al. makes no mention whatsoever of a fastener array, much less fasteners of the fastener array are arranged in overlapping relation. Rather, item 165 of Barone et al. that is cited at page 4 of the Office Action is simply a "securing means" that "includes a thin-walled member 166 having first and second ends 167,168 and a smooth outer wall surface 169 disposed between the first and second ends 167, 168". (Col. 5, lines 62-64 of Barone et al.)

In view of the above, the rejection must be withdrawn and it is believed that this Application is in condition for allowance.

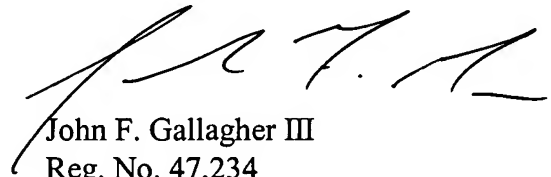
Should the Examiner believe that a telephone conference or personal interview would

facilitate resolution of any remaining matters, it is requested that the Examiner contact Applicant(s)' attorney at the below number.

Please charge any deficiency or other fee(s) that may become due under 37 C.F.R. § 1.16 and 1.17, at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account No. 50-4053. Also, if any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge Deposit Account No. 50-4053 therefor.

**A DUPLICATE OF THIS SHEET IS ENCLOSED.**

Respectfully submitted,



John F. Gallagher III  
Reg. No. 47,234  
Attorney for Applicant(s)

**THE FARRELL LAW FIRM, P.C.**  
333 Earle Ovington Blvd., Suite 701  
Uniondale, New York 11553  
Tel: (516) 228-3565 (x 3026)

Enclosures: Corrected Drawing Sheet for Figs 20A-20C, with changes marked in red; and  
*Submission of Replacement Drawing Sheet*

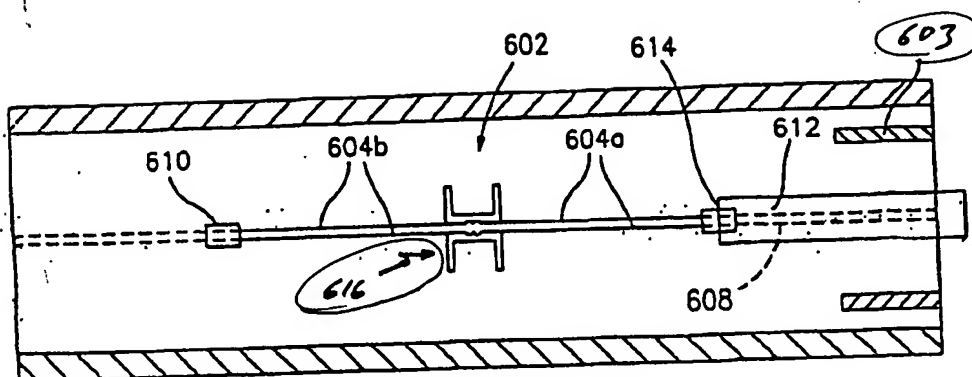


FIG. 20A

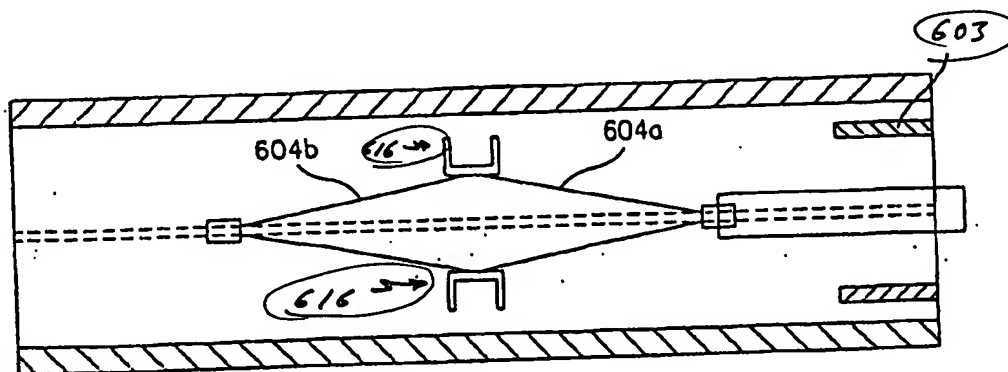


FIG. 20B

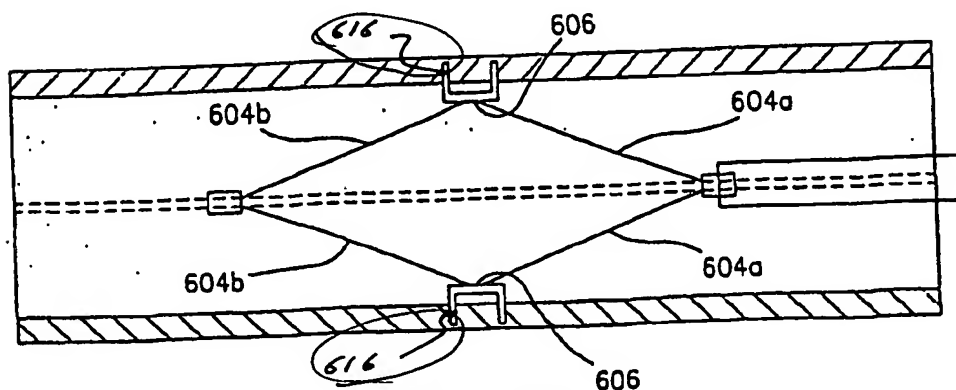


FIG. 20C